

REVENUE DEPARTMENT[701]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 421.14 and 422.68, the Department of Revenue hereby gives Notice of Intended Action to amend Chapter 42, “Adjustments to Computed Tax and Tax Credits,” and Chapter 52, “Filing Returns, Payment of Tax, Penalty and Interest, and Tax Credits,” Iowa Administrative Code.

These amendments are proposed as a result of 2012 Iowa Acts, Senate File 2342, which amends Iowa Code section 422.33 and adds new Iowa Code sections 422.11I and 422.11L.

Item 1 amends 701—Chapter 42 by adding new rules 701—42.47(422) related to the geothermal heat pump tax credit and 701—42.48(422) related to the solar energy system tax credit for individual income tax.

Item 2 amends 701—Chapter 52 by adding new rule 701—52.44(422) related to the solar energy system tax credit for corporation income tax.

The proposed amendments will not necessitate additional expenditures by political subdivisions or agencies and entities which contract with political subdivisions.

Any person who believes that the application of the discretionary provisions of these amendments would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any.

The Department has determined that these proposed amendments may have an impact on small business. The Department has considered the factors listed in Iowa Code section 17A.4A. The Department will issue a regulatory analysis as provided in Iowa Code section 17A.4A if a written request is filed by delivery or by mailing postmarked no later than September 10, 2012, to the Policy Section, Policy and Communications Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306. The request may be made by the Administrative Rules Review Committee, the Administrative Rules Coordinator, at least 25 persons signing that request who each qualify as a small business or an organization representing at least 25 such persons.

Any interested person may make written suggestions or comments on these proposed amendments on or before August 28, 2012. Such written comments should be directed to the Policy Section, Policy and Communications Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306. Persons who want to convey their views orally should contact the Policy Section, Policy and Communications Division, Department of Revenue, at (515)281-8450 or at the Department of Revenue offices on the fourth floor of the Hoover State Office Building.

Requests for a public hearing must be received by August 28, 2012.

After analysis and review of this rule making, no adverse impact on jobs has been found. The tax credits may positively impact job and economic growth for businesses in the state of Iowa.

These amendments are intended to implement Iowa Code section 422.33 as amended by 2012 Iowa Acts, Senate File 2342, section 8, and 2012 Iowa Acts, Senate File 2342, sections 1 and 7.

The following amendments are proposed.

ITEM 1. Adopt the following new rules 701—42.47(422) and 701—42.48(422):

701—42.47(422) Geothermal heat pump tax credit. For tax years beginning on or after January 1, 2012, a geothermal heat pump tax credit is available for residential property located in Iowa.

42.47(1) Calculation of credit. The credit is equal to 20 percent of the federal residential energy efficient tax credit allowed for geothermal heat pumps provided in Section 25D(a)(5) of the Internal Revenue Code. The federal residential energy efficient tax credit for geothermal heat pumps is currently allowed for installations that are completed on or before December 31, 2016. Therefore, the Iowa tax credit will be available for the 2012 to 2016 tax years. The geothermal heat pump must be installed on or after January 1, 2012, to qualify for the Iowa credit. If the taxpayer installed a geothermal heat pump and initially reported the federal tax credit for a tax year beginning prior to January 1, 2012, no Iowa credit will be allowed.

EXAMPLE: A taxpayer reported a \$6,000 geothermal tax credit on the 2011 federal return due to an installation that was completed in 2011. The taxpayer applied \$2,000 of the credit on the taxpayer's 2011 federal return since the federal tax liability was \$2,000. The remaining \$4,000 of federal credit was applied on the 2012 federal return. No credit will be allowed on the 2012 Iowa return since the installation was completed before January 1, 2012.

42.47(2) Claiming the tax credit. The geothermal heat pump tax credit will be claimed on Form IA 148, Tax Credit Schedule. The taxpayer must attach federal Form 5695, Residential Energy Credits, to any Iowa tax return claiming the geothermal heat pump credit. Any tax credit in excess of the tax liability for the tax year may be credited to the tax liability for the following ten years or until used, whichever is the earlier.

This rule is intended to implement 2012 Iowa Acts, Senate File 2342, section 1.

701—42.48(422) Solar energy system tax credit. For tax years beginning on or after January 1, 2012, a solar energy system tax credit is available for both residential property and business property located in Iowa.

42.48(1) Property eligible for the tax credit. The following property located in Iowa is eligible for the tax credit.

- a. Qualified solar water heating property described in Section 25D(d)(1) of the Internal Revenue Code.
- b. Qualified solar energy electric property described in Section 25D(d)(2) of the Internal Revenue Code.
- c. Equipment which uses solar energy to generate electricity, to heat or cool (or to provide hot water for use in) a structure, or to provide solar process heat (excepting property used to generate energy for the purposes of heating a swimming pool) and which is eligible for the federal energy credit as described in Section 48(a)(3)(A)(i) of the Internal Revenue Code.
- d. Equipment which uses solar energy to illuminate the inside of a structure using fiber-optic distributed sunlight and which is eligible for the federal energy credit as described in Section 48(a)(3)(A)(ii) of the Internal Revenue Code.

42.48(2) Calculation of credit. The credit is equal to the sum of the following federal tax credits:

- a. Fifty percent of the federal residential energy property credit provided in Section 25D(a)(1) of the Internal Revenue Code.
- b. Fifty percent of the federal residential energy property credit provided in Section 25D(a)(2) of the Internal Revenue Code.
- c. Fifty percent of the federal energy credit provided in Section 48(a)(2)(A)(i)(II) of the Internal Revenue Code.
- d. Fifty percent of the federal energy credit provided in Section 48(a)(2)(A)(i)(III) of the Internal Revenue Code.

The amount of tax credit claimed by a taxpayer related to paragraphs 42.48(2) "a" and "b" cannot exceed \$3,000 for a tax year. The amount of tax credit claimed by a taxpayer related to paragraphs 42.48(2) "c" and "d" cannot exceed \$15,000 for a tax year.

The federal residential energy efficient tax credits and the federal energy tax credits for solar energy systems are currently allowed for installations that are completed on or before December 31, 2016. Therefore, the Iowa tax credit will be available for the 2012 to 2016 tax years. The solar energy system must be installed on or after January 1, 2012, to qualify for the Iowa credit. If the taxpayer installed a

solar energy system and initially reported the federal tax credit for a tax year beginning prior to January 1, 2012, no Iowa credit will be allowed.

EXAMPLE: A taxpayer reported a \$9,000 residential energy efficient tax credit on the 2011 federal return due to an installation of a solar energy system that was completed in 2011. The taxpayer applied \$4,000 of the credit on the taxpayer's 2011 federal return since the federal tax liability was \$4,000. The remaining \$5,000 of federal credit was applied on the 2012 federal return. No credit will be allowed on the 2012 Iowa return since the installation was completed before January 1, 2012.

42.48(3) Application for the tax credit. No more than \$1.5 million of tax credits for solar energy systems are allowed for each of the tax years 2012 to 2016. The \$1.5 million cap also includes the solar energy system tax credits provided in rule 701—52.44(422) for corporation income tax. Credits will be reserved on a first-come, first-served basis.

a. In order to reserve the tax credit, a taxpayer must complete an application for the solar energy tax credit. The application must contain the following information:

- (1) Name, address and federal identification number of the taxpayer.
- (2) Date of installation of the solar energy system.
- (3) Copies of invoices or other documents showing the cost of the solar energy system.
- (4) Amount of federal income tax credit for the solar energy system.
- (5) Amount of Iowa tax credit to be reserved.

b. If the application is approved, the department will send a letter to the taxpayer reserving the amount of the tax credit and providing a tax credit certificate number. The solar energy system tax credit will be claimed on Form IA 148, Tax Credit Schedule. Any tax credit in excess of the tax liability for the tax year may be credited to the tax liability for the following ten years or until used, whichever is the earlier. The taxpayer must attach to any Iowa tax return claiming the solar energy system tax credit federal Form 5695, Residential Energy Credits, if claiming the residential energy credit or federal Form 3468, Investment Credit, if claiming the business energy credit.

If an application cannot be accepted because the annual cap of \$1.5 million has been reached, the taxpayer may submit an application for the next tax year. While preference will be given to applications that are submitted in the same year as the installation, a credit may be allowed for an installation in a prior year if the cap has not been met.

EXAMPLE: A taxpayer submitted an application for a \$2,500 tax credit on December 1, 2012, for an installation that occurred in 2012. The application was denied on December 15, 2012, because the \$1.5 million cap had already been reached for 2012. The taxpayer submits an application for 2013 on January 2, 2013, for the same \$2,500 credit that was previously denied. The department only receives applications for \$1.2 million of the tax credit during 2013. The tax credit for this taxpayer will be allowed for 2013, and any other similar applications will be allowed on a first-come, first-served basis until the remaining \$300,000 of credit for 2013 is depleted.

c. A taxpayer who is eligible to receive a renewable energy tax credit provided in rule 701—42.28(422) is not eligible for the solar energy system tax credit.

42.48(4) Allocation of tax credit to owners of a business entity. If the taxpayer claiming the tax credit based on a percentage of the federal energy credit under Section 48 of the Internal Revenue Code is a partnership, limited liability company, S corporation, estate or trust electing to have income taxed directly to the individual, the individual may claim the tax credit. The amount claimed by the individual shall be based upon the pro rata share of the individual's earnings of the partnership, limited liability company, S corporation, estate or trust. The maximum amount of credit available to a partnership, limited liability company, S corporation, estate or trust shall be limited to \$15,000 for a single tax year.

This rule is intended to implement 2012 Iowa Acts, Senate File 2342, section 7.

ITEM 2. Adopt the following new rule 701—52.44(422):

701—52.44(422) Solar energy system tax credit. For tax years beginning on or after January 1, 2012, a solar energy system tax credit is available for business property located in Iowa.

52.44(1) Property eligible for the tax credit. The following property located in Iowa is eligible for the tax credit:

a. Equipment which uses solar energy to generate electricity, to heat or cool (or to provide hot water for use in) a structure, or to provide solar process heat (excepting property used to generate energy for the purposes of heating a swimming pool) and which is eligible for the federal energy credit as described in Section 48(a)(3)(A)(i) of the Internal Revenue Code.

b. Equipment which uses solar energy to illuminate the inside of a structure using fiber-optic distributed sunlight and which is eligible for the federal energy credit as described in Section 48(a)(3)(A)(ii) of the Internal Revenue Code.

52.44(2) Calculation of credit. The credit is equal to the sum of the following federal tax credits:

a. Fifty percent of the federal energy credit provided in Section 48(a)(2)(A)(i)(II) of the Internal Revenue Code.

b. Fifty percent of the federal energy credit provided in Section 48(a)(2)(A)(i)(III) of the Internal Revenue Code.

The amount of tax credit claimed by a taxpayer related to paragraphs 52.44(2) “a” and “b” cannot exceed \$15,000 for a tax year.

The federal energy tax credit for solar energy systems is currently allowed for installations that are completed on or before December 31, 2016. Therefore, the Iowa tax credit will be available for the 2012 to 2016 tax years for installations completed on or before December 31, 2016. The solar energy system must be installed on or after January 1, 2012, to qualify for the Iowa credit. If the taxpayer installed a solar energy system and initially reported the federal tax credit for a tax year beginning prior to January 1, 2012, no Iowa credit will be allowed.

EXAMPLE: A taxpayer reported a \$9,000 energy credit on the 2011 federal return due to an installation of a solar energy system that was completed in 2011. The taxpayer applied \$4,000 of the credit on the taxpayer’s 2011 federal return since the federal tax liability was \$4,000. The remaining \$5,000 of federal credit was applied on the 2012 federal return. No credit will be allowed on the 2012 Iowa return since the installation was completed before January 1, 2012.

52.44(3) Application for the tax credit. No more than \$1.5 million of tax credits for solar energy systems are allowed for each of the tax years 2012 to 2016. The \$1.5 million cap also includes the solar energy system tax credits provided in rule 701—42.48(422) for individual income tax. Credits will be reserved on a first-come, first-served basis.

a. In order to reserve the tax credit, a taxpayer must complete an application for the solar energy tax credit. The application must contain the following information:

- (1) Name, address and federal identification number of the taxpayer.
- (2) Date of installation of the solar energy system.
- (3) Copies of invoices or other documents showing the cost of the solar energy system.
- (4) Amount of federal income tax credit for the solar energy system.
- (5) Amount of Iowa tax credit to be reserved.

b. If the application is approved, the department will send a letter to the taxpayer reserving the amount of the tax credit and providing a tax credit certificate number. The solar energy system tax credit will be claimed on Form IA 148, Tax Credit Schedule. Any tax credit in excess of the tax liability for the tax year may be credited to the tax liability for the following ten years or until used, whichever is the earlier. The taxpayer must attach federal Form 3468, Investment Credit, to any Iowa tax return claiming the solar energy system tax credit.

If an application cannot be accepted because the annual cap of \$1.5 million has been reached, the taxpayer may submit an application for the next tax year. While preference will be given to applications that are submitted in the same year as the installation, a credit may be allowed for an installation in a prior year if the cap has not been met.

EXAMPLE: A taxpayer submitted an application for a \$2,500 tax credit on December 1, 2012, for an installation that occurred in 2012. The application was denied on December 15, 2012, because the \$1.5 million cap had already been reached for 2012. The taxpayer submits an application for 2013 on January 2, 2013, for the same \$2,500 credit that was previously denied. The department only receives applications for \$1.2 million of the tax credit during 2013. The tax credit for this taxpayer will be allowed

for 2013, and any other similar applications will be allowed on a first-come, first-served basis until the remaining \$300,000 of credit for 2013 is depleted.

c. A taxpayer who is eligible to receive a renewable energy tax credit provided in rule 701—52.27(422) is not eligible for the solar energy system tax credit.

52.44(4) *Allocation of tax credit to owners of a business entity.* If the taxpayer claiming the tax credit based on a percentage of the federal energy credit under Section 48 of the Internal Revenue Code is a partnership, limited liability company, S corporation, estate or trust electing to have income taxed directly to the individual, the individual may claim the tax credit. The amount claimed by the individual shall be based upon the pro rata share of the individual's earnings of the partnership, limited liability company, S corporation, estate or trust. The maximum amount of credit available to a partnership, limited liability company, S corporation, estate or trust shall be limited to \$15,000 for a single tax year.

This rule is intended to implement Iowa Code section 422.33 as amended by 2012 Iowa Acts, Senate File 2342, section 8.